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Independence Energy Group LLC and
Independence Energy Alliance LLC

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

TODD C. BANK, Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

v.

INDEPENDENCE ENERGY GROUP LLC
and INDEPENDENCE ENERGY
ALLIANCE LLC,

Defendants.

Civil Action No. 1:12-cv-1369 (WFK)(VMS)

Honorable William F. Kuntz, II, U.S.D.J.

**DOCUMENT
FILED ELECTRONICALLY**

NOTICE OF MOTION TO DISMISS

To: Todd C. Bank
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PLEASE TAKE NOTICE that the Defendants Independence Energy Group LLC and Independence Energy Alliance, LLC (“Defendants”) shall move before the Honorable William F. Kuntz, II, U.S.D.J., United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, for an Order dismissing the Plaintiff’s Complaint

with prejudice for failure to state a claim on which relief may be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

PLEASE TAKE FURTHER NOTICE that In support of this Motion to Dismiss, Defendants rely upon the accompanying Memorandum of Law and supporting exhibits.

Respectfully submitted,

/s/Aurora F. Parrilla
Aurora F. Parrilla

Dated: August 24, 2012*

*Please note that this Notice of Motion was inadvertently not served along with Defendants' Memorandum of Law and supporting exhibits on July 27, 2012, and is being served today, August 24, 2012. Plaintiff does not object or take issue with the service of the Notice of Motion today.